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OFFICE OF PETITIONS

In re Application of Urano et al.	:	
Application No. 09/602,409	:	Decision on Petition
Filing Date: June 23, 2000	:	
Attorney Docket No. 773-008	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 2009, and supplemented October 15, 2009, to revive the above-identified application.

The petition is **granted**.

Facts

A Notice of Allowance and Notice of Allowability were mailed March 14, 2003. The Notice of Allowance required payment of the issue fee and set a statutory period for reply of three (3) months. The Office did not receive the issue fee. As a result, the application became abandoned as of midnight on June 16, 2003. The Office mailed a Notice of Abandonment to the new address of record on July 24, 2003.

Petitioner filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment on August 21, 2003, based on non-receipt of the Notice of Allowance.

A decision dismissing the petition was mailed June 26, 2007. Petitioner states the decision on petition was never received.

The instant petition requests revival of the application pursuant to 37 CFR 1.137(b).

Discussion

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee,
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

- (4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice of Allowance in the form of payment of the issue fee and petitioner has submitted the required petition fee.


37 CFR 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." To the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above. If the entire delay from the date of abandonment, until the date the petition was filed, was not unintentional, petitioner must notify the Office.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition was accompanied by a payment of \$300 for the publication fee. However, a publication fee is unnecessary because the application was filed June 23, 2000. Therefore, the Office has scheduled a refund of the \$300.

Technology Center Art Unit 2171 will be informed of the instant decision in order to permit the examiner to review the Information Disclosure Statement filed April 2, 2009. After the examiner reviews the matter, the examiner will refer the instant case to the Office of Data Management, Patent Publication Branch.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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